

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

### **I. DISPUTE**

- a. Whether there should be additional reimbursement of \$4,680.00 for dates of service, 10/22/01, 10/23/01, 10/24/01, 10/25/01 and 10/26/01.
- b. The request was received on 01/24/02.

### **II. EXHIBITS**

1. Requestor, Exhibit I:

A. Initial Request for Medical Dispute Resolution:

1. TWCC 60 and Letter Requesting Dispute Resolution undated
2. HCFA(s)
3. EOB/TWCC 62 forms/Medical Audit summary
4. Medical Records
5. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.

B. TWCC's request for additional medical documentation was faxed to Requestor on 06/10/02 with a fax confirmation sheet.

No additional medical documentation noted in this fee dispute file

2. Respondent, Exhibit II:

Based on Commission Rule 133.307 (g) (4), the Division notified the Requestor with a copy to the insurance carrier Austin Representative of the Requestor's requirement to submit two copies of additional documentation relevant to the fee dispute on 06/10/02. There is no Carrier initial or 14 day response to this medical fee dispute in the file.

### **III. PARTIES' POSITIONS**

1. Requestor: Letter dated 03/11/02

"...We based our fair and reasonable charges for CPT Code 97799-CP for all the components required to carry our Chronic Pain program.... This eight-hour program is an extensive, coordinated, goal-oriented, with an interdisciplinary team that provides services to reduce pain, improve functioning, and decrease the dependence on the health care system of persons with chronic pain syndrome. The program was set up to reduce the patient's dependence and/or addiction to the pain medications....It was due to this intensity of the program, that we believe that the charge is a fair and reasonable charge of the Chronic Pain Program"

2. Respondent: No position statement

#### **IV. FINDINGS**

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are 10/22/01, 10/23/01, 10/24/01, 10/25/01 and 10/26/01.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor's Table of Disputed Services, the Requestor billed the Carrier \$7,800.00 for services rendered on the above dates in dispute.
4. Per the Requestor's Table of Disputed Services, the Carrier paid the Requestor \$3,120.00 for services rendered on the above dates in dispute.
5. The Carrier's EOBs deny additional reimbursement as M – reduced to fair and reasonable.

#### **V. RATIONALE**

Section 413.011(b) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

Rule 133.307 (g) (3) (D) places certain requirements on the provider when supplying documentation with the request for dispute resolution. The provider is to discuss, demonstrate, and justify that the payment amount being sought is fair and reasonable. Commission Rule 133.304 (i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. Regardless of the carrier's methodology or lack thereof, or a timely or untimely response, the burden remains on the provider to show that the amount of reimbursement requested is fair and reasonable.

Because there is no current fee guideline for Chronic Pain Programs, the Medical Review Division has to determine, based on the parties' submission of information, who has provided the more persuasive evidence. As the requestor, the health care provider has the burden to prove that the fees paid were not fair and reasonable. In this case, the provider submitted EOB(s) from other carriers that indicate those carriers paid varying percentages of the billed charges. The willingness of some carriers to reimburse at or near the billed amount does not necessarily document that the billed amount is fair and reasonable and does not show how effective medical cost control is achieved, a criteria identified in Sec. 413.011(b) of the Texas Labor Code.

MDR: M4-02-1818-01

The above Findings and Decision are hereby issued this 12th day of August 2002.

Denise Terry, R.N.  
Medical Dispute Resolution Officer  
Medical Review Division

DT/dt

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.